

is a debate I think all of us wish to have. Our Tax Code needs reforming. But let's do that not in the context of raising revenues but rather in the context of making it a Tax Code that would enable us to grow more. At the end of the day, that is what we should all be for. Because a growing pie means there is more for everyone—rich and poor alike—the families of America as well as the governments. I hope my colleagues will focus on what the American people are telling us through these surveys: Let's reduce spending, not increase taxes.

EXHIBIT 1

[From the Wall Street Journal, July 25, 2011]

THE DEBT CEILING AND THE PURSUIT OF HAPPINESS

(By Arthur C. Brooks)

The battle over the debt ceiling is only the latest skirmish in what promises to be an ongoing, exhausting war over budget issues. Americans can be forgiven for seeing the whole business as petty, selfish and tiresome. Conservatives in particular are beginning to worry that public patience will wear thin over their insistence that our nation's government-spending problem must be remedied through spending cuts, not by raising more revenues.

But before they succumb to too much caution, budget reformers need to remember three things. First, this is not a political fight between Republicans and Democrats; it is a fight against 50-year trends toward statism. Second, it is a moral fight, not an economic one. Third, this is not a fight that anyone can win in the 15 months from now to the presidential election. It will take hard work for at least a decade.

Consider a few facts. The Bureau of Economic Analysis tells us that total government spending at all levels has risen to 37% of gross domestic product today from 27% in 1960—and is set to reach 50% by 2038. The Tax Foundation reports that between 1986 and 2008, the share of federal income taxes paid by the top 5% of earners has risen to 59% from 43%. Between 1986 and 2009, the percentage of Americans who pay zero or negative federal income taxes has increased to 51% from 18.5%. And all this is accompanied by an increase in our national debt to 100% of GDP today from 42% in 1980.

Where will it all lead? Some despairing souls have concluded there are really only two scenarios. In one, we finally hit a tipping point where so few people actually pay for their share of the growing government that a majority become completely invested in the social welfare state, which stabilizes at some very high level of taxation and government social spending. (Think Sweden.)

In the other scenario, our welfare state slowly collapses under its weight, and we get some kind of permanent austerity after the rest of the world finally comprehends the depth of our national spending disorder and stops lending us money at low interest rates. (Think Greece.)

In other words: Heads, the statist win; tails, we all lose.

Anyone who seeks to provide serious national political leadership today—those elected in 2010 or who seek national office in 2012—owe Americans a plan to escape having to make this choice. We need tectonic changes, not minor fiddling.

Rep. Paul Ryan's (R., Wis.) budget plan is the kind of model necessary. But structural change will only succeed if it's accompanied by a moral argument—an unabashed cultural defense of the free enterprise system that helps Americans remember why they love their country and its exceptional culture.

America's Founders knew the importance of moral language, which is why they asserted our unalienable right to the pursuit of happiness, not to the possession of property. Similarly, Adam Smith, the father of free-market economics, had a philosophy that transcended the mere wealth of nations. His greatest book was "The Theory of Moral Sentiments," a defense of a culture that could support true freedom and provide the greatest life satisfaction.

Yet today, it is progressives, not free marketeers, who use the language of morality. President Obama was not elected because of his plans about the taxation of repatriated profits, or even his ambition to reform health care. He was elected largely on the basis of language about hope and change, and a "fairer" America.

The irony is that statisticians have a more materialistic philosophy than free-enterprise advocates. Progressive solutions to cultural problems always involve the tools of income redistribution, and call it "social justice."

Free-enterprise advocates, on the other hand, speak privately about freedom and opportunity for everybody—including the poor. Most support a limited safety net, but also believe that succeeding on our merits, doing something meaningful, and having responsibility for our own affairs are what give us the best life. Sadly, in public, they always seem stuck in the language of economic efficiency.

The result is that year after year we slip further down the redistributionist road, dissatisfied with the growing welfare state, but with no morally satisfying arguments to make a change that entails any personal sacrifice.

Examples are all around us. It is hard to find anyone who likes our nation's current health-care policies. But do you seriously expect grandma to sit idly by and let Republicans experiment with her Medicare coverage so her great-grandchildren can get better treatment for carried interest? Not a chance.

If reformers want Americans to embrace real change, every policy proposal must be framed in terms of self-realization, meritocratic fairness and the promise of a better future. Why do we want to lower taxes for entrepreneurs? Because we believe in earned success. Why do we care about economic growth? To make individual opportunity possible, not simply to increase wealth. Why do we need entitlement reform? Because it is wrong to steal from our children.

History shows that big moral struggles can be won, but only when they are seen as decade-long fights and not just as a way to prevail in the next election. Welfare reform was first proposed in 1984 and regarded popularly as a nonstarter. Twelve years of hard work by scholars at my own institution and others helped make it a mainstream idea (signed into law by a Democratic president) and perhaps the best policy for helping the poor to escape poverty in our nation's history. Political consultants would have abandoned welfare reform as unworkably audacious and politically suicidal. Real leaders understood that its moral importance transcended short-term politics.

No one deserves our political support today unless he or she is willing to work for as long as it takes to win the moral fight to steer our nation back toward enterprise and self-governance. This fight will not be easy or politically safe. But it will be a happy one: to share the values that make us proud to be Americans.

Mr. KYL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MOMENT OF SILENCE TO HONOR OFFICER JACOB J. CHESTNUT AND DETECTIVE JOHN M. GIBSON

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will observe a moment of silence in memory of Officer Jacob J. Chestnut and Detective John M. Gibson of the U.S. Capitol Police.

(Moment of silence.)

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I thank the Chair for leading the moment of silence we just had for Officer Jacob Chestnut and Detective John Gibson of the U.S. Capitol Police.

It is important to recognize that each and every day the citizens of the United States come to the Capitol. They are able to visit this Chamber and visit the offices of their elected Senators and, across the building, the offices of the Members of the House of Representatives. They are able to do so because the Capitol Police maintain a form of security that gives us this access while at the same time protects the functioning of democracy from the very real threats of a changing world.

So it is appropriate that the east front door was renamed the Memorial Door in honor of Officer Jacob Chestnut and Detective John Gibson and that we take this moment to recognize the service of all of the members of the Capitol Police who not only protect all of those who work here, all of those who legislate here, but all of the citizens of the country who come to advocate for their concerns.

Thank you, Mr. President. I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MERKLEY). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF PAUL A. ENGELMAYER TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

NOMINATION OF RAMONA VILLAGOMEZ MANGLONA TO BE JUDGE FOR THE DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report:

The bill clerk read the nomination of Paul A. Engelmayer, of New York, to be United States District Judge for the Southern District of New York; Ramona Villagomez Manglona, of the Northern Mariana Islands, to be Judge for the District Court for the Northern Mariana Islands.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour for debate on the nominations, equally divided and controlled in the usual form.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand the vote will be at 5:30; is that correct?

The PRESIDING OFFICER. There is debate for 1 hour. If no time is yielded back, the vote will be at 5:36.

Mr. LEAHY. Mr. President, I will yield back 6 minutes of my time so the vote can begin at 5:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOMENT OF SILENCE

Mr. LEAHY. Mr. President, I note the Senate observed a moment of silence for John Gibson and Jacob Chestnut, who were killed in the Capitol in 1998 on July 24. Both were excellent police officers—one uniformed, one plain clothes—in the protective division. My wife and I knew both John Gibson and Jacob Chestnut, and we were at both of their memorial services. Both were fine officers, and I am glad we had a moment of silence.

We sometimes forget that we have a lot of very good police officers, both in the uniform division and the plain clothes division, in this Capitol. They are here to protect us at all times of day or night, no matter what the weather or what the circumstances. It is something we should keep in mind. We often can go home when the session ends, but they are here to make sure everything is still safe. So we owe all of them a debt of gratitude, and I hope all of them will remain safe. It is a tragedy that Officers Gibson and Chestnut were not able to remain safe but died protecting the Capitol.

Today, the Senate is finally going to vote on two judicial nominations reported unanimously by the Judiciary Committee in early April.

Let me put that into perspective. Way back when snow was still falling in my State, every single Republican and every single Democrat voted for these two nominees. In past years they would have been confirmed probably in a voice vote that same week in a wrap-up session. For some reason, my friends on the other side think it should be different with a Democratic President than it was for a Republican President, or for that matter, all past Presidents.

Despite the support of every Democrat and every Republican on the Judiciary Committee, the nominations of Paul Engelmayer to fill a judicial emergency vacancy in the Southern District of New York, and Ramona Manglona to fill a 10-year term in the District Court for the Commonwealth of the Northern Mariana Islands, have been stalled for 3½ months on the Senate's Executive Calendar. These are the kinds of qualified, consensus judicial nominations that in past years—whether under President Ford, President Carter, President Reagan, or either of the President Bushes—would have been confirmed promptly rather than being forced to languish for months because of Republican refusal to consent to debate and vote on nominations.

At a time when judicial vacancies remain above 90 throughout this country, these needless delays perpetuate the judicial vacancy crisis that Chief Justice Roberts, a Republican appointee, wrote of last December and that the President, the Attorney General, bar associations and chief judges around the country have urged us to join together to end. Imagine the example we set to litigants by saying: "Well, we can't hear your litigation, no matter how important it is. You are going to have to wait year after year after year because we don't have a judge. We can't get one confirmed." The Senate can do a better job working to ensure the ability of our Federal courts to provide justice to our fellow Americans around the country.

Recently, Chief Judge Moreno of the Southern District of Florida wrote to the Senate leaders urging that they expedite action on two nominations to fill judicial emergency vacancies in that district. Both Kathleen Williams and Robert Scola are among the many judicial nominees who were reported unanimously by the Judiciary Committee, yet both are being delayed for no good reason.

Chief Judge Moreno writes:

[T]he judicial shortage with three vacancies in our district is becoming acute. For this reason, I ask your assistance in expediting both confirmations. The Judiciary Committee has found the nominees qualified and the people of South Florida eagerly await their service.

Both of these nominees have the support of their home State Senators—Senator NELSON, a Democrat, and Senator RUBIO, a Republican. The two Senators have set aside partisan actions,

and the Senate Judiciary Committee has set aside partisan actions by voting for the nominees unanimously. Why should they be held up because of partisan actions on this floor?

Kathleen Williams and Robert Scola are among the 27 judicial nominees reviewed by the Judiciary Committee and reported favorably to the Senate for final action who are being stalled. I am glad that we are finally being allowed to consider the 2 nominees who will be confirmed today, but they have been waiting since early April. This is not traditional, and there are still 25 who languish.

This is not how the Senate has acted in years past with other Presidents' judicial nominees. It is not accurate to pretend that real progress is being made in these circumstances. After we have these two votes, we will still have 25 nominees sitting on the calendar who could be disposed of within an hour, yet they are blocked week after week after week. That is not progress. We may be making progress in the committee, but if the nominees are blocked on the floor, it is not progress. Vacancies are being kept high, consensus nominees are being delayed, and it is the American people—Republicans, Democrats, and Independents alike—that are being made to suffer.

This is another area in which we must come together for the American people. Let us do something for the American people, and not just for our political parties. There is no reason Senators cannot join together to finally bring down the excessive number of vacancies that have persisted in our Federal courts throughout the Nation for far too long. It is not a Republican or Democratic issue, it is an American issue.

Between now and the August recess the Senate should consider all of the judicial nominees ready for a final vote, including those desperately needed in southern Florida backed by Senator NELSON and Senator RUBIO.

I expect the two nominations we are going to consider today will be confirmed overwhelmingly. They are examples of the almost two dozen consensus nominees who are being stalled for no good reason. Mr. Engelmayer is a nominee with unassailable credentials. After receiving his undergraduate and law school degrees with honors from Harvard Law School, Mr. Engelmayer served as a law clerk to Judge Patricia Wald of the United States Court of Appeals for the District of Columbia and then to Justice Thurgood Marshall on the Supreme Court. He worked as a Federal prosecutor in the Southern District of New York for 9 years, where he climbed the ranks from a young lawyer to become Chief of the Major Crimes Unit. Mr. Engelmayer served for 2 years as an Assistant Solicitor General for the United States. Since 2000, he has been a partner in the law firm WilmerHale, where he practices civil and criminal litigation and regularly dedicates himself to pro bono work. The ABA's